

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2013-071759

12/10/2013

HONORABLE JOSE S. PADILLA

CLERK OF THE COURT  
L. Wistuber  
Deputy

IN RE THE MATTER OF  
IDONNA MCNAY

IDONNA MCNAY  
16130 N 158TH AVE  
SURPRISE AZ 85374

AND

ARTHUR MCNAY

ARTHUR MCNAY  
4397 W BETHANY HOME RD # 1078  
GLENDALE AZ 85301

CHILD PROTECTIVE SERVICES  
CONCILIATION SERVICES-NE  
FAMILY COURT SERVICES-CCC  
FAMILY LAW CASE MNGR - NW  
ARIZONANS FOR CHILDREN  
2435 E LA JOLLA DR  
TEMPE AZ 85282

MINUTE ENTRY

10:03 a.m. (Courtroom NW-122) This is the time set for Temporary Orders hearing re: Petition for Dissolution of a Non-Covenant Marriage With Minor Children filed on August 15, 2013. Petitioner/Mother is present on her own behalf. Respondent/Father is present on his own behalf.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Idonna McNay and Arthur McNay are sworn.

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Discussion is held regarding the status of the CPS/police investigation.

**THE COURT NOTES** not having received the CPS records the Court ordered in its October 28, 2013 minute entry to be received on or before December 3, 2013.

**IT IS ORDERED** setting an Order to Show Cause Hearing on **February 21, 2014, at 2:00 p.m.** A DES *Supervisor* shall appear in person and show cause as to why DES should not be held in contempt for failing to provide DES records on or before December 3, 2013 as ordered by this Court on October 28, 2013. The hearing will be held before:

The Honorable Jose S. Padilla  
Northwest Regional Center – Courtroom 122  
Superior Court of Arizona in Maricopa County  
14264 West Tierra Buena Lane  
Surprise, AZ 85374  
602-372-0901

NOTE: Petitioner and Respondent's appearances are not necessary at the Order to Show Cause Hearing.

Discussion ensues.

**IT IS ORDERED**, on a temporary basis commencing Saturday, December 14, 2013, that Father will have supervised parenting time every other weekend on both Saturday and Sunday from 10:00 a.m. to 2:00 p.m. Father's parenting time shall be supervised at all times by Arizonans for Children at Father's sole expense.

**IT IS FURTHER ORDERED** that both parties shall immediately contact Arizonans for Children at (480) 838-0085 to set up Father's parenting time and shall fully cooperate in good faith to ensure that Father's parenting time occurs.

10:08 a.m. The Court stands at recess.

10:11 a.m. Court reconvenes with both parties present.

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Discussion is held.

**IT IS ORDERED**, on a temporary basis, that Mother shall have sole legal decision making authority over the minor children, Grace Ann Bland (DOB: 5/11/2002), Mariah Bland (DOB: 2/16/1997), and Tudy Bland (DOB: 12/14/2000).

Pursuant to the information provided to the Court on the record this date,

**THE COURT FINDS** that Mother is currently unemployed and has the ability to search for appropriate full-time employment.

**IT IS ORDERED** that Mother shall immediately report to one of the DES Employment Service locations listed below. The staff may interview you to determine your job experience, skills and interests, give you tests to measure your skill level, and refer you to appropriate job openings.

**IT IS FURTHER ORDERED** that Mother shall apply for a minimum of 20 valid jobs each week through Employment Service along with other employment search methods until appropriate full-time employment is found. A valid job is considered one in which you can provide proof of your application to the court at your next court appearance.

**IT IS FURTHER ORDERED** that upon your return to court, you shall provide this Court with the original Employment Service referral form and a copy of each application you submitted, including the business name, address, phone number and contact person.

**IT IS FURTHER ORDERED** that the failure to follow this Court order as outlined may result in sanctions being imposed against you, including but not limited to finding you in contempt.

East Valley Office: 163 N. Dobson Rd., Mesa 85201, (480) 962-7678  
Central Ave. Office: 4635 W. Central Ave., Phoenix 85040, (602) 276-5587  
7<sup>th</sup> Street Office: 9801 N. 7th Street, Phoenix 85020, (602) 861-0208  
51<sup>st</sup> Ave. Office: 3406 N. 51st Ave., Phoenix 85031, (623) 247-3304  
Gilbert Office: 735 N. Gilbert Rd. #134, Gilbert 85234, (480) 497-0350  
West Valley Office: 1840 N. 95<sup>th</sup> Ave., #160, Phoenix 85037, (602) 372-4200

**IT IS FURTHER ORDERED** referring the matter to Conciliation Services for a Family Court Conciliator to interview the minor children, Grace Ann Bland (DOB: 5/11/2002), Mariah

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Bland (DOB: 2/16/1997), and Tudy Bland (DOB: 12/14/2000).

**IT IS FURTHER ORDERED** setting the **NON-CONFIDENTIAL** Child Interview for **January 8, 2014 at 1:30 p.m.** in Conciliation Services at:

**Maricopa County Superior Court  
Northeast Regional Center  
18380 North 40th Street, Phoenix, AZ 85032**

The Court anticipates that the Conciliator may address statutory issues set forth in A.R.S. § 25-403(A)(1),(A)(2), (A)(3), (A)(4), and (A)(5) and all other matters deemed relevant by the Conciliator.

**IT IS FURTHER ORDERED** that Mother shall be responsible for transporting the minor child to the above scheduled Child Interview.

**YOU WILL HAVE TO PAY A \$100 FEE IF YOU DO NOT BRING THE MINOR CHILDREN TO THE CHILD INTERVIEW AS ORDERED. IF YOU NEED TO RESCHDULE, THE PARTY RESPONSIBLE FOR BRINGING THE CHILDREN TO THE INTERVIEW MUST NOTIFY CONCILIATION SERVICES AND RECEIVE PERMISSION TO RESCHEDULE AT LEAST THREE FULL COURT DAYS BEFORE THE SESSION.**

**NOTICE**

In accordance with the Arizona Rules of Family Law Procedures, specifically Rule 68, subsection B, each party has the right to request that reasonable procedures be in place at Mediation to protect a victim of domestic violence. Please call Conciliation Services to request arrangements. If you wish to request a Waiver of Attendance, you must file your written request with the assigned judicial officer on the case.

**LET THE RECORD REFLECT** the Court calculates child support in accordance with the Arizona Child Support Guidelines.

**THE COURT FINDS** that the relevant financial factors and the discretionary allowances and adjustments which the Court will allow for a current calculation of child support pursuant to the Arizona Child Support Guidelines are set forth in the Child Support Worksheet, which the Court hereby incorporates and adopts as its findings with respect to child support.

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**IT IS ORDERED**, on a temporary basis, that Father shall pay to Mother as and for child support the sum of \$400.95 per month, payable through the Support Payment Clearinghouse on the 1<sup>st</sup> day of each month, effective as of September 1, 2014, by Income Withholding Order.

Formal written Child Support Order is approved and signed by the Court December 10, 2013, and filed (entered) by the Clerk on this 10<sup>th</sup> day of December, 2013.

**LET THE RECORD REFLECT** an Income Withholding Order is initiated electronically by the above-named deputy clerk. Confirmation # 409864

Until the Income Withholding Order becomes effective, it is the responsibility of the party obligated to pay child support to pay the support to Support Payment Clearinghouse, P. O. Box 52107, Phoenix, AZ 85072-2107. The payment should show the case number and/or ATLAS case number, the name of the party paying support, and the name of the party who will receive the payment.

If payments are made directly to the person who is to receive the support, the payments may be considered a gift, in which case no credit will be given towards the support obligation.

Any change in the paying party's employment and any change in the residential address of either party **must** be submitted to the Clerk's Office, in writing, within 10 days of the change (A.R.S. § 25-322(C)). Failure to notify the Clerk's Office of any change may be considered contempt of Court.

The obligation for child support terminates when each child attains the age of 18 years or is otherwise emancipated, but in the event any child attains the age of 18 years while attending high school, support shall continue to be provided during the period in which said child is actually attending high school but only until the child reaches 19 years of age. If the parties have more than one child, the amount of child support owed is **not automatically reduced** by the child's share as each child is emancipated; rather the parties **must request a modification** of the child support order in writing and pursuant to the Arizona Rules of Family Law Procedure. Provisions for health insurance and uninsured health expenses for the children, as provided for below, shall be deemed to be additional child support and shall be enforceable as such.

Pursuant to A.R.S. § 25-503(I), the right to receive child support payments as provided herein vests as each installment falls due. Each vested child support installment is enforceable as a final judgment by operation of law.

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**IT IS FURTHER ORDERED** that if either parent wishes to enroll the child in an extra-curricular activity, incur tuition for education expenses, or if an elective medical decision needs to be made and the expense is greater than \$50, the parent must receive the written approval of the other parent prior to authorization. Any parent who procures elective medical treatment for the child or enrolls the child in an activity with an expense greater than \$50 without the other parent's written consent, waives the right of contribution from the other parent toward the expense of such treatment. Such authorization shall also be subject to sanctions, as determined by this Court.

**IT IS FURTHER ORDERED** that absent an agreement in writing, neither parent shall schedule extra-curricular activities or appointments for the children during the other parent's scheduled parenting time. Failure to comply with this order may result in sanctions being imposed by the Court.

**IT IS FURTHER ORDERED** referring this matter to the Family Law Case Managers for the scheduling of an Early Resolution Conference. Counsel and/or the parties will receive an Order to Appear with the date and time of the conference in the mail.

Discussion is held regarding property division.

**IT IS FURTHER ORDERED** the parties may avoid the "scorched earth" result of liquidating by selling the remaining marital/personal property IF they are able to agree between themselves to divide the remaining community property prior to trial by utilizing the following procedure:

- The parties shall meet to allocate the division of personal property.
- The parties shall flip a coin to decide which party will make two lists (List A and List B) of personal property.
- The person who wins the coin toss shall have the choice of making the list or choosing which one of the two lists they wish to have. The two lists shall set forth how all property is to be divided. The children's possessions shall not be included in either list.
- Once the two lists have been compiled, the other party shall decide whether they want the items on List A or the items on List B.

**IT IS FURTHER ORDERED** that any items remaining in the marital estate as of the time of trial worth over \$50 shall be placed at auction; any items worth less than \$50, or worth

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over \$50 which did not sell at auction (without reserve), shall be sold by way of yard sale; all of the proceeds from the auction/sale or the yard sale shall be divided between the parties on a 50-50 basis. Both parties are entitled to be present at the yard sale along with their "second". The parties shall contact and agree to an auction house, in the Phoenix area, willing to dispose of the property by way of auction. Any property remaining unsold after the auction will be sold at yard sale within 30 days after the auction.

**IT IS FURTHER ORDERED** directing the parties to obtain a Kelley Blue Book value as to the vehicle they are driving. They shall do so by accessing Kelley Blue Book, [www.kbb.com](http://www.kbb.com) and shall designate their vehicle as private sale, excellent condition. If either party feels their vehicle is not in excellent condition, photographs and /or other evidence must be submitted at the time of trial evidencing otherwise.

**IT IS FURTHER ORDERED** setting the above-captioned case for **Trial** on **April 15, 2014 at 10:00 a.m.** (2 hours allotted) before the Honorable Jose S. Padilla, located at 14264 West Tierra Buena Lane, Courtroom 122, Surprise, Arizona 85374.

Each party is directed to provide the Court with their recent paycheck stubs, W-2's, and tax returns at the time of the hearing.

Each party will be allowed 1/2 of the available time to present all direct, cross, redirect examination and any argument. The parties are advised the Court will utilize a portion of the time for its ruling. The parties are expected to complete the trial in the allotted time, and the time will not be extended absent a motion granted by the Court and filed at least thirty (30) days prior to trial setting forth good cause to extend the time and specifically including a list of each and every witness who will testify and an estimate of time and subject matter of the expected testimony for each witness.

**FAMILY COURT PRE-TRIAL STATEMENT [FORM DRPTS 16F]**

**IT IS FURTHER ORDERED** that each party shall fully complete and file a Family Court Pre-Trial Statement [form DRPTS 16f] in proper form without argument, narrative statements or other documents, and provide a copy to the adverse party and to this Division at least 5 judicial days before the Conference. The Court is required to consider the reasonableness of each party's positions, including the failure to take a position, in any subsequent requests for attorney's fees made pursuant to A.R.S. §§ 25-324 and 12-349. The Resolution Statement may be obtained through the Self Service Center. A form may be downloaded at:

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<http://www.superiorcourt.maricopa.gov/superiorcourt/self-servicecenter/forms/familycourt/>

**IT IS FURTHER ORDERED** that the Family Court Pre-Trial Statement [form DRPTS 16f] shall include:

1. A current Affidavit of Financial Circumstances completed by each party.
2. If there are disputed custody, access or visitation issues, a specific proposal for custody and parenting time.
3. If there are disputed child support issues, a current Parent's Worksheet for Child Support Amount completed by each party pursuant to the Statewide Child Support Guidelines.
4. If the parties have a natural or an adopted minor unemancipated child in common, proof of compliance with the Parental Education Program requirements of A.R.S. §25-351 et seq.
5. If there are disputed issues regarding division of property, a current and detailed Inventory of Property and Debts, together with a summary proposal by each party as to how the property and assets should be divided. If possible, the court prefers a one-page statement of all property except personal property items valued at less than \$500 each.
6. If spousal maintenance is requested and disputed, each party shall state the amount and duration of spousal maintenance requested.
7. If division of debts is an issue, the parties shall prepare and exchange a list of all debts, including creditor's name, amount of debt, monthly payment amount, the reason the debt was incurred, who should pay the debt, and all of the information required by A.R.S. §25-318(H).
8. If there is a disputed issue regarding the payment of attorney's fees by either party, an affidavit of the attorney's fees claimed submitted in accordance with the requirements of Rule 78(D), *Arizona Rules of Family Law Procedure*.

**IT IS FURTHER ORDERED** that the failure of counsel or any party to appear at the time of trial, or to timely present the Family Court Pre-Trial Statement [form DRPTS 16f] in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 76(D), *Arizona Rules of Family Law Procedure* and Local Rules 6.2(e) and 6.9(b), including proceeding to hear this matter by default based upon the evidence presented by the appearing party.



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**EXHIBITS**

**IT IS FURTHER ORDERED** that, if either party has exhibits to be marked, counsel or the parties shall deliver said exhibits to the Clerk **at least five (5)** business days prior to trial. Duplicate exhibits shall not be presented. The parties shall also provide the Court and the adverse party with a separate copy of all exhibits.

1. Counsel and/or the parties shall submit all exhibits to this division by 5:00 p.m. on April 8, 2014 (5 days prior to trial). Exhibits shall not be filed at the Clerk of Court filing counter.

2. The exhibit packet shall contain a title page which states the case number, whether the exhibits are Petitioner's or Respondent's and the date for the hearing. Failure to clearly indicate which party is presenting the exhibits may result in the exhibits being marked incorrectly or not being marked at all.

3. Each exhibit shall be stapled if it contains more than one page. Each exhibit shall be clearly separated from the other exhibits, preferably by placing a colored page in between each exhibit. Do not staple the colored pages to the exhibits. Do not write or type on the colored pages. The clerk will reuse the colored pages if they are left blank. Failure to clearly separate each exhibit may result in the exhibits being marked differently than counsel and/or the parties intended, such as multiple exhibits being marked as one exhibit.

4. The exhibits shall be marked in the order received. For example, if Respondent's exhibits are received first, Respondent's exhibits will be marked first, i.e., Respondent's exhibits 1 through 5, and Petitioner's exhibits will follow Respondent's exhibits in number, i.e., Petitioner's exhibits 6 through 10.

5. Duplicate exhibits shall not be presented.

6. The parties shall provide the adverse party with a separate copy of all exhibits.

**Information regarding exhibits for parties not represented by counsel:**

The Court does not automatically review exhibits. Each party will need to offer his/her exhibits into evidence during the hearing by stating to the Court that he/she is offering exhibit(s) 1, 2, 3, etc. The party will need to explain the relevance of each exhibit to the Court. Exhibits

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that are not received into evidence during the hearing will be returned to the party at the conclusion of the hearing without the Court reviewing the exhibit(s).

**IT IS FURTHER ORDERED** that the parties shall indicate in the Family Court Pre-Trial Statement [form DRPTS 16f] which exhibits they have agreed will be admissible at trial as well as any specific objections that will be made to any exhibit if offered at trial which is not agreed to be admitted. Reserving all objections to the time of trial will not be permitted. At the time of trial all exhibits that the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Family Court Pre-Trial Statement [form DRPTS 16f] shall be summarily admitted.

**FINDINGS OF FACT**

You may request conclusions of fact and law on the following issues, if they are contested: the issues of child custody, relocation requests, spousal maintenance, community property, community debt, and child support. To request conclusions of fact and law, you must file a written request with the court before the trial or the evidentiary hearing. If you make a written request before the trial or evidentiary hearing, the court will make conclusions of fact and law as part of the final decision.

If any party asks the court to make findings of fact and law on any issue, each party must file written proposed findings of fact and law on those issues. The proposed findings also must be submitted in an electronic form that is editable, preferably Microsoft Word. The proposed findings must be submitted with the Pretrial Statement.

**SETTLEMENT**

**IT IS FURTHER ORDERED** in the event a full settlement is reached prior to the time of trial, the parties or counsel, if represented, **shall** present the formal written Consent Decree of Dissolution, Judgment or the agreement signed and notarized by all parties, prior to 5:00 p.m. the **day prior to** the scheduled trial [if set on the Court's morning calendar the following day, e.g., 9:00 to 11:55 a.m.] or **not later than** 9:00 a.m. on the day of trial [if the trial is set on the Court's afternoon calendar, e.g., 1:30 to 4:55 p.m.].

In the event the agreement has not been reduced to writing, then in that event, **all parties** and their counsel, if represented, shall appear at the time designated for trial to recite the agreement on the record and have it entered as the order of the court pursuant to *Rule 69, (Arizona Rules of Family Law Procedure hereinafter AzRFLP)*.

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If the signed Consent Decree, Judgment or agreement is not received by the Court pursuant to these guidelines, and the parties and/or their respective counsels, if any, fail to appear as ordered, the Court **shall dismiss the case in its entirety, without prejudice** and the matter **will not** be reinstated but for the most compelling of reasons. See *Rule 70(B)*.

**POSTPONEMENTS AND SCHEDULE CHANGES**

Continuances, postponements and schedule changes will not ordinarily be granted. Any postponement or change will be granted only in accordance with appropriate rules, based on a showing of good cause, and requires the express written approval of the Court.

**DISCLOSURE/DISCOVERY**

**IT IS ORDERED** with regard to discovery and disclosure requirements:

1. Both parties shall complete all disclosure requirements required by Rules 49 and 50, *Arizona Rules of Family Law Procedure*, including an exchange of all relevant information, documents and exhibits on or before **April 4, 2014**.

2. All depositions and discovery contemplated by Rules 49 through 65, *Arizona Rules of Family Law Procedure*, shall be completed and any motions regarding discovery shall be filed no later than **March 28, 2014**.

3. Counsel and both parties shall personally meet, face to face, at least ten (10) days prior to trial to conduct settlement discussions, prepare a Family Court Pre-Trial Statement [form DRPTS 16f], exchange all exhibits, and discuss the resolution and narrowing of all procedural and substantive issues in this case.

4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution, company, business, medical or health care provider or employer possessing any relevant information.

If a party is forced to incur attorney's fees or other costs to obtain documents or records by subpoena or other legal process after reasonable request of the other party to obtain such information in a more efficient or economical manner, the Court will consider a request for payment or reimbursement of such fees and costs at the time of trial.

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**IF ONLY ONE PARTY APPEARS, THE COURT MAY ENTER A DEFAULT AGAINST THE ABSENT PARTY, AND ALLOW THE PARTY THAT APPEARS TO PROCEED BY DEFAULT AND/OR ISSUE A CIVIL ARREST FOR THE PARTY WHO FAILS TO APPEAR. IF BOTH PARTIES FAIL TO APPEAR, THE ENTIRE CASE MAY BE DISMISSED, WITHOUT FURTHER NOTICE TO EITHER PARTY.**

**IT IS FURTHER ORDERED** signing this minute entry as a formal written Order of the Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / HONORABLE JOSE S. PADILLA

JUDICIAL OFFICER OF THE SUPERIOR COURT

10:48 a.m. Matter concludes.

**FILED:** Child Support Worksheet, Child Support Order

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.